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Attorneys for Plaintiff
WILLIAMS-SONOMA, INC.

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

WILLIAMS-SONOMA, INC., a California
corporation,

Plaintiff,

v.

COCOON FURNISHINGS, INC., *et al.*,

Defendants.

Case No. C-07-4017 JSW

**DECLARATION OF VERONICA BESMER
IN SUPPORT OF PLAINTIFF WILLIAMS-
SONOMA, INC.'S SEPARATELY FILED
CASE MANAGEMENT CONFERENCE
STATEMENT**

CMC Date: April 25, 2008
CMC Time: 1:30 pm.
Courtroom: 2, 17th Floor
Judge: Jeffrey S. White

I, Veronica Besmer, declare as follows:

1. I am an attorney licensed to practice in the State of California, am a member of the bar of this Court, and am an associate at the law firm of Townsend and Townsend and Crew LLP. The following facts are within my personal knowledge, except for those matters stated upon information and belief, and if called upon to testify, I would and could competently testify hereto.

2. On January 22, 2008, WSI filed an amended complaint in this Court, adding Stephanie Lamons individually and d/b/a Urbanism, Inc. (collectively, "Urbanism") as new defendants.

3. On January 24, 2008, Urbanism was personally served with the pleadings.

4. On March 3, 2008, I stipulated a second time to opposing counsel John H. Mitchell's request to extend Urbanism's time to respond to the complaint. However, I added that "while we agree to this

1 extension, we will not be willing to continue the CMC in April because of this." *See* Exhibit 1. Mr.
2 Mitchell agreed, and the parties understood the joint case management conference statement to be due
3 April 1, 2008.

4 5. Well before the time of filing, I started to contact Mr. Mitchell to meet and confer regarding
5 the joint statement that I drafted and sent to Mr. Mitchell, but did not receive any substantive feedback
6 from Mr. Mitchell despite numerous telephone calls and emails to his office. *See* Exhibits 2 and 3.
7 On April 2, 2008, Mr. Gilchrist (the lead counsel for WSI) and Mr. Mitchell had a telephone
8 conversation discussing prospects of settlement. Mr. Gilchrist again requested, and Urbanism
9 provisionally agreed to, the production of certain financial information essential for a settlement that
10 we had requested since February 11, 2008. Based on our good-faith belief in Urbanism's interest in
11 settlement of this case, we stipulated a fourth time to the continuation of the case management
12 conference and Urbanism's time to respond to the complaint to the current date, April 25, 2008.

13 6. Despite its promises, Urbanism failed to contact us or produce any information since April 2,
14 2008.

15 7. Attached as Exhibit 4 is a true and correct copy of my email to Mr. Mitchell dated April 11,
16 2008, asking for feedback to the joint statement by April 14, 2008. Mr. Mitchell failed to respond to
17 my email.

18 8. On April 15, 2008, I called Mr. Mitchell's office and left a message for him to call me back
19 regarding the joint statement. I have not heard from Mr. Mitchell to this day.

20 9. WSI therefore submits its case management statement separately.

21 I declare under penalty of perjury under the laws of United States of America that the
22 foregoing is true and correct, and that this declaration was executed on April 18, 2008, at San
23 Francisco, California.

24
25
26 /s/ Veronica Besmer
Veronica Besmer
27
28

Besmer, Veronica

From: Besmer, Veronica
Sent: Monday, March 03, 2008 4:23 PM
To: 'johnmitchelllaw@yahoo.com'
Subject: Extension of time to answer complaint

Mr. Mitchell:

The 2-week extension you faxed us is generally fine except that March 17 is a Monday, not a Tuesday. Please fax us a corrected version and we'll file it with the court as soon as possible.

Please note, however, that while we agree to this extension, we will not be willing to continue the CMC in April because of this, assuming that Judge White grants our request for a continuation.

As I stated in our call this morning, we reject your offer for \$5,000 because Urbanism's conduct was more egregious than Bungalow's or Cocoon Furnishings'. In addition to setting up and benefiting from a licensing scheme of tens of small furniture retailers that used the Pottery Barn mark in their advertising, Urbanism itself has continuously misused the trademark for at least five years until as late as Dec. 2006 (see exhibit B of the amended complaint).

We look forward to receiving information about Urbanism's licensing revenue and store sales. In the meantime, please fax us the stip for the time extension. Many thanks.

Best regards,

Veronica Besmer
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Besmer, Veronica

From: Besmer, Veronica
Sent: Tuesday, April 01, 2008 11:30 AM
To: 'johnmitchelllaw@yahoo.com'
Subject: Joint CMC statement

John:

Per our discussion on Friday, please find attached the joint CMC statement for your review. Please call me as soon as possible so we can discuss any changes you would like to make, if any. Also please fill in your affirmative defenses, if any, and the interested parties, if any (see paragraphs 2 and 19, resp.). The joint statement is due today per the court's order of March 5.

Best,

Veronica
Tel: 415.273.7597



WS-
N-DRAFT JT CMC :

Besmer, Veronica

From: Besmer, Veronica
Sent: Tuesday, April 01, 2008 4:32 PM
To: 'johnmitchelllaw@yahoo.com'
Cc: Gilchrist, Gregory S.
Subject: FW: 3:07-cv-04017-JSW Williams-Sonoma, Inc. v. Cocoon Furnishings, Inc

Mr. Mitchell:

FYI, below is the court's response. Please call me as soon as you reviewed the proposed statement so we can discuss, or send me your revisions. As I indicated, we have until midnight to file this statement.

Many thanks.
Veronica

-----Original Message-----

From: Frank_Justiliano@cand.uscourts.gov [mailto:Frank_Justiliano@cand.uscourts.gov]
Sent: Tuesday, April 01, 2008 4:25 PM
To: Besmer, Veronica
Subject: RE: 3:07-cv-04017-JSW Williams-Sonoma, Inc. v. Cocoon Furnishings, Inc

Thank you. You are correct.

"Besmer,
Veronica"
<vbesmer@townsend
.com>

04/01/2008 04:16
PM

To
<Frank_Justiliano@cand.uscourts.gov
>

cc
"Gilchrist, Gregory S."
<gsgilchrist@townsend.com>,
<johnmitchelllaw@yahoo.com>

Subject

RE: 3:07-cv-04017-JSW
Williams-Sonoma, Inc. v. Cocoon
Furnishings, Inc

Dear Mr. Justiliano:

In the stipulation to continue the CMC hearing, the parties proposed April 4 as the new CMC hearing date (see first attachment), which would have made the joint CMC statement due on March 28. However, the Court subsequently rescheduled the new CMC date for April 8 (see second attachment; see also docket entry no. 27). We believe this makes the joint CMC statement due today. Please let us know whether this is correct. The parties are currently conferring regarding the joint CMC statement and expect to file it soon.

Best regards,

Veronica Besmer

-----Original Message-----

From: Frank Justiliano@cand.uscourts.gov

[mailto:Frank_Justiliano@cand.uscourts.gov]

Sent: Tuesday, April 01, 2008 3:47 PM

To: Gilchrist, Gregory S.; Besmer, Veronica; johnmitchelllaw@yahoo.com

Subject: 3:07-cv-04017-JSW Williams-Sonoma, Inc. v. Cocoon Furnishings, Inc

Mr. Gilchrist, Ms. Besmer and Mr. Mitchell,

Pursuant to the stipulation filed 3/20/08, the joint CMC statements were due on 3/28/08 and the CMC hearing is scheduled for 4/4/08 @ 1:30 p.m. Please advise on the status of the case and request for any further continuance by tomorrow.

Thank you.

Besmer, Veronica

From: Besmer, Veronica
Sent: Friday, April 11, 2008 11:02 AM
To: 'John Mitchell'
Cc: Gilchrist, Gregory S.
Subject: Williams-Sonoma, Inc. v. Stephanie Lamons, individually and d/b/a Urbanism, Inc.

Mr. Mitchell:

We have apparently been misled as to your willingness to settle because we have not heard a word from you since we stipulated on April 1 to extend your time to answer the complaint and to continue the CMC. Specifically, you have not produced any financial documents that would help us work out a settlement. Mr. Gilchrist and I kept asking for this information since at least February.

Please give us your feedback to the joint CMC statement by Monday, April 14. Also, please confirm that you agree we include in the statement that the parties will mutually exchange their initial disclosures on May 2, which is a week after the CMC and your deadline to respond to the complaint.

Best regards,

Veronica Besmer
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